

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tiffany Dempsey	Team: Team # 1	CCRB Case #: 201401992	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/19/2014 5:00 AM	Location of Incident: § 87(2)(b) in Queens	Precinct: 114	18 Mo. SOL 8/19/2015	EO SOL 8/19/2015	
Date/Time CV Reported Mon, 03/03/2014 10:11 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/03/2014 10:11 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Nicholas Neve	06961	939111	GANG Q
2. Officers			GANG Q

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ryan Habermehl	01478	931713	GANG Q
2. POM Christophe Kearney	16979	943429	GANG Q

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Nicholas Neve	Abuse: Dt. Nicholas Neve entered and searched § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C.DT3 Nicholas Neve	Abuse: Dt. Nicholas Neve failed to show a search warrant to § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)

Case Summary

On February 19, 2014, at approximately 5:20 a.m., Dt. Nicholas Neve and other members of the Queens Gang Squad entered and searched the first floor and basement of § 87(2)(b) in Queens pursuant to search warrant #§ 87(2)(b) (**Allegation A**)(encl. E1). § 87(2)(b) alleged that while being handcuffed, an officer kned him in the back, pushed his head down, and punched him in the face three times (**Allegation B**). § 87(2)(b) alleged that he requested to see a copy of the search warrant, but Dt. Neve failed to show it to him (**Allegation C**). When he returned home from the stationhouse, § 87(2)(b) allegedly found that some of the clothing from his bedroom had cuts and rips; he alleged that POs did this (**Allegation D**) (complaint encl. C1-2; § 87(2)(b)'s CCRB statement encl. C3-11; § 87(2)(b)'s CCRB statement encl. C18-26).

Mediation, Civil and Criminal Histories

This case was ineligible for mediation. As of October 17, 2014, § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim in regards to this case (encl. F95). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer Histories

- This is the second CCRB complaint filed by § 87(2)(b) § 87(2)(b)
- § 87(2)(b) and § 87(2)(b) have not filed any CCRB complaints (encl. B4-5).
- Dt. Neve has been a member of the NYPD for nine years, and has had 24 CCRB allegations involving 11 cases with three substantiated allegations for a stop, frisk, and search against him. He received instructions from the NYPD in regards (case #201107817)(encl. B1-2).

Finding and Recommendations

Explanation of Subject Officer Identification

Dt. Neve confirmed entering and searching the incident location; § 87(2)(g) . Dt. Neve confirmed being in possession of the search warrant, and being the lead detective of the execution of the search. Sgt. Habermehl also stated that Dt. Neve possessed the search warrant. § 87(2)(g) .

Though three white male officers identified by investigation as Dt. Nicholas Neve, PO Chrisptopher Kearney, and Sgt. Ryan Habermehl, were present in the bedroom, the subject officer who used physical force against § 87(2)(b) remains unidentified because the officer was standing behind him, and the bedroom lights were turned off and therefore, § 87(2)(b) was unable to see and describe the subject officer. Also, all three officers were within arm's length of § 87(2)(b) during the incident and would have been able to interact with him physically. Dt. Neve identified PO Kearney as the officer who handcuffed § 87(2)(b) PO Kearney stated he and PO Neve handcuffed § 87(2)(b) and Sgt. Habermehl testified that he stood behind § 87(2)(b) and with the assistance of Dt. Neve, handcuffed § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) who was seated at the dining room table in his living room, saw four to six officers exit and enter his bedroom during the incident. From where he was seated, he was only able to see officers positioned near a desk in his room. When § 87(2)(b) returned home from the 114th Precinct stationhouse, he noticed that clothing in his bedroom closet had been damaged; specifically the pocket on two pairs of jeans and the seams within two jackets had been cut open. He had not observed this during the incident. Dt. Neve, Sgt. Habermehl and PO Kearney did not cut or damage any clothing nor did they see any other officer do so. § 87(2)(g).

§ 87(2)(g)

Allegations Not Pleaded

- **Property Damaged** -Allegations that the officers damaged property other than § 87(2)(b)'s clothing, including items damaged during the course of a normal search as they have been subsumed into the entry and search allegation.
- **Vehicle Search**- According to § 87(2)(b) and § 87(2)(b) neighbors informed them that they observed officers searching § 87(2)(b)'s vehicle which was parked down the block next to § 87(2)(b) during the incident. However, the civilians refused to provide names and contact information for these witnesses. § 87(2)(g)

Recommendation

Allegation A- Dt. Nicholas Neve entered and searched § 87(2)(b) in Queens.

It is undisputed that Dt. Neve entered and searched § 87(2)(b) in Queens. Police documentation shows that the entry and search were pursuant to “no knock” search warrant #§ 87(2)(b) (encl. E1), which allowed officers to search the entirety of the first floor apartment and its basement, pursuant to NYS Criminal Procedure Law Article 690.20 (encl. A1). § 87(2)(g)

Allegation B- An officer used physical force against § 87(2)(b)

Allegation D- Officers damaged § 87(2)(b)'s property.

§ 87(2)(g)

Allegation C- Dt. Nicholas Neve failed to show a search warrant to § 87(2)(b)

According to § 87(2)(b) he asked multiple unidentified officers to see a copy of the search warrant prior to § 87(2)(b) being escorted upstairs. He was told an officer was on his way that he could speak to about the warrant, but was never shown a copy of the warrant (encl. C3-11).

§ 87(2)(b) did not hear any conversation about the search warrant and was not shown a copy of it (encl. C12-17). According to § 87(2)(b) once he was brought upstairs, an officer told him, § 87(2)(b) and § 87(2)(b) that the officers had a search warrant to search the premises. Neither § 87(2)(b) nor § 87(2)(b) asked about the search warrant in § 87(2)(b)'s presence. § 87(2)(b) did not state whether or not the search warrant was shown in his presence (encl. C18-26).

Dt. Neve testified that after he apprehended § 87(2)(b) and searched the basement, he went upstairs and showed the three men a copy of the search warrant as part of procedure; none of the civilians requested to see it (encl. D10-16).

Sgt. Habermehl testified that none of the civilians asked him or any other officer to see the search warrant, and that Dt. Neve was the only officer who had a copy of it. Sgt. Habermehl did not observe Dt. Neve showing the civilians the search warrant. However, Sgt. Habermehl moved from room to room within the house and was not stationary within the dining room with the civilians once he came upstairs (encl. D17-22).

Patrol Guide Procedure 212-105 states that when safely able to do so, the officer executing the search warrant shall show a copy of the search warrant to the occupants of the premises (encl. A2-6).

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date